

(f) All applicants (except applicants filing FCC Form 175) are required to indicate at the time their application is filed whether or not a Commission grant of the application may have a significant environmental impact as defined by § 1.1307 of this chapter. If answered affirmatively, the requisite environmental assessment as prescribed in § 1.1311 of this chapter must be filed with the application and Commission environmental review must be completed prior to construction. See § 1.1312 of this chapter. All GWCS licensees are subject to a continuing obligation to determine whether subsequent construction may have a significant environmental impact prior to undertaking such construction and to otherwise comply with §§ 1.1301 through 1.1319 of this chapter. See § 1.1312 of this chapter.

§ 26.308 Technical content of applications; maintenance of list of station locations.

All applications required by this part shall contain all technical information required by the application forms or associated Public Notice(s). Applications other than initial applications for a GWCS license must also comply with all technical requirements of the rules governing the GWCS (see Subparts C and D as appropriate).

§ 26.309 Station antenna structures.

(a) Unless the GWCS licensee has received prior approval from the FCC, no antenna structure, including radiating elements, tower, supports and all appurtenances, may be higher than 61 m (200 feet) above ground level at its site.

(b) Unless the GWCS licensee has received prior approval from the FCC, no antenna structure at an airport or heliport that is available for public use and is listed in the Airport Directory of the current Airman's Information Manual or in either the Alaska or Pacific Airman's Guide and Chart Supplement; or at an airport or heliport under construction that is the subject of a notice or proposal on file with the FAA, and except for military airports, it is clearly indicated that the airport will be available for public use; or at an airport or heliport that is operated by the armed forces of the United States; or

at a place near any of these airports or heliports, may be higher than:

(1) 1 m above the airport elevation for each 100 m from the airport runway longer than 1 km within 6.1 km of the antenna structure.

(2) 2 m above the airport elevation for each 100 m from the nearest runway shorter than 1 km within 3.1 km of the antenna structure.

(3) 4 m above the airport elevation for each 100 m from the nearest landing pad within 1.5 km of the antenna structure.

(c) A GWCS station antenna structure no higher than 6.1 m (10 feet) above ground level at its site or no higher than 6.1 m above any natural object or existing manmade structure, other than an antenna structure, is exempt from the requirements of paragraphs (a) and (b) of this section.

(d) Further details as to whether an aeronautical study and/or obstruction marking and lighting may be required, and specifications for obstruction marking and lighting are contained in Part 17 of this chapter, Construction, Marking and Lighting of Antenna Structures. To request approval to place an antenna structure higher than the limits specified in paragraphs (a), (b), and (c) of this section, the licensee must notify the Federal Aviation Administration (FAA) on FAA Form 7460-1 and the FCC on FCC Form 854.

§ 26.310 Waiver of rules.

(a) Request for waivers. (1) Waivers of these rules may be granted upon application or by the Commission on its own motion. Requests for waivers shall contain a statement of reasons sufficient to justify a waiver. Waivers will not be granted except upon an affirmative showing:

(i) That the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and that grant of the waiver is otherwise in the public interest; or

(ii) That the unique facts and circumstances of a particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest. Applicants must also show the lack of a reasonable alternative.

(2) If the information necessary to support a waiver request is already on file, the applicant may cross-reference to the specific filing where it may be found.

(b) Denial of waiver, alternate showing required. If a waiver is not granted, the application will be dismissed as defective unless the applicant has also provided an alternative proposal which complies with the Commission's rules (including any required showings).

§26.311 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, executive, or other matters of a formal character; or

(2) The application does not comply with the Commission's rules, regulations, specific requirements for additional information or other requirements. See also §1.2105 of this chapter.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not filled out completely and signed;

(2) The application (other an application filed on FCC Form 175) does not include an environmental assessment as required for an action that may have a significant impact upon the environment, as defined in §1.1307 of this chapter.

(3) The application is filed prior to the Public Notice issued under §26.317 announcing the application filing date for the relevant auction or after the cutoff date prescribed in that Public Notice;

(c) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

§26.312 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

§26.313 Amendment of application for General Wireless Communications Service filed on FCC Form 175.

(a) The Commission will provide bidders a limited opportunity to cure defects in FCC Form 175 specified herein except for failure to sign the application and to make certifications. These are defects which may not be cured. See also §1.2105 of this chapter.

(b) For GWCS, applicants will be permitted to amend their Form 175 applications to make minor amendments to correct minor errors or defects such as typographical errors. Applicants will also be permitted to amend FCC Form 175, to make ownership changes or changes in the identification of parties to bidding consortia, provided such changes do not result in a change in control of the applicant and do not involve another applicant (or parties in interest to an applicant) who has applied for any of the same licenses as the applicant. Amendments which change control of the applicant will be considered major amendments. An FCC Form 175 which is amended by a major amendment will be considered to be newly filed and cannot be resubmitted after applicable filing deadlines. See also §1.2105 of this chapter.

§26.314 Amendment of applications for General Wireless Communications Service (other than applications filed on FCC Form 175).

This section applies to all applications for General Wireless Communications Service other than applications filed on FCC Form 175.

(a) Amendments as of right. A pending application may be amended as a matter of right if the application has not been designated for hearing.

(1) Amendments shall comply with §26.319, as applicable; and